IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2029 of 2007()

CRIME 75/04, STATION HOUSE OFFICER, KANNUR TOWN
CC.142/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR

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PETITIONER: ACCUSED:

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1. LATHEESH BABU P.T.
   P.T. HOUSE, KADACHIRA, KANNUR.

2. P.K. SATHYAN, S/O. KANNAN,
   VADAKKECHALIL, (PO) THOTTADA, KANNUR.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY STATION HOUSE OFFICER,
KANNUR TOWN POLICE STATION THROUGH
PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2029 of 2007

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Dated this the 26th day of June, 2007

O R D E R

The petitioners face indictment in a prosecution under Section 379 I.P.C. The petitioners had entered appearance before the learned Magistrate. But unfortunately because of the wrong noting of the posting date, they could not appear before the learned Magistrate on 14.6.2007. Consequently they find themselves in the unenviable predicament of non-bailable warrants of arrest chasing him. The petitioners are willing to appear before the learned Magistrate. But they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the

petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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